THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8914 of 1997

07-03-2007

Between:-

G.D. Reddy

Petitioner

And

The Labour Court-I,
Govt. of A.P., Hyderabad,
Chandra Vihar Complex,
Nampally Road, Hyderabad and six others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8914 of 1997

Oral order:

The writ petition is directed against the award of the Labour Court No.I, Hyderabad dated 28-08-1996 in I.D.No. 36 of 1995. The petitioner is a Conductor in the Andhra Pradesh Road Transport Corporation (for short 'the APSRTC'). While he was conducting the bus on the route Charminar-J.P. Darga on 23-06-1993, a check was conducted at Thimmapur stage i.e., Stage No.8/9 and a charge sheet setting out three charges of irregularities and misconduct was issued. The first charge relates to the failure to observe the rule of "Issue and Start"; the second charge pertains to the "failure to collect fare amount at the rate of Rs.01-75 per each from a batch of two passengers

and to issue tickets from Palmakol to Thimmapur ex-stages 8 to 8/9"; and the third charge is "failure to account sale of two tickets of Rs.02-75 denomination in the S.R. against stage No.7and 8 after having issued to two passengers who were found to be traveling from Shamshabad to Kothur ex-stages 6 to 9." Petitioner denied the charges and after due enquiry was found guilty and removed from service. He challenged the penalty by way of I.D.No. 36 of 1995.

The Labour Court concluded, on the basis of the material on record that the domestic enquiry finding as to the petitioner's guilt of the charges alleged against him, were properly arrived at. In paragraph No.15 of the award, the Labour Court recorded that the punishment of removal was severe and disproportionate to the guilt of the petitioner established at the domestic enquiry and therefore allowed the claim to the extent of directing his reinstatement into service as a 'fresh conductor' except for the purpose of pensionary benefits. The Labour Court also directed that the petitioner shall not be entitled to previous service or to back wages or any other emoluments, remuneration, allowances or attendant benefits; and that for a period of one year from the date of reinstatement into service, shall be paid 80% of the gross total salary. Since the Labour Court found the guilt of the petitioner to have been properly established at the domestic enquiry, including on charge Nos. 1 and 2 –

failure to observe the rule 'issue and start'; and "failure to collect the fare amount from two passengers", the punishment of removal imposed could not have been rationally considered to be disproportionate as there is both a monetary loss to the respondent-Corporation and a severe transgression of discipline viz., the discipline of 'issue and start' i.e, to issue a ticket and then start the bus, as well. This employer's norm was violated by the petitioner for no justifiable reason and that would constitute a severe misconduct. However, the Labour Court had taken a sympathetic, though misconceived, view of the matter and had imposed a lesser punishment of directing the petitioner's reinstatement as a 'fresh candidate' except for the purposes of pensionary benefits, disentitling him to full salary and entitlement to only 80% of salary for a period of one year on reinstatement. The punishment directed by the Labour Court though creative does not commend interference under Article 226 of the Constitution of India, since the petitioner has already derived an unmerited benefit on principle.

On the aforesaid analysis, the Court is not inclined to interfere in the writ petition. The writ petition is accordingly dismissed. No costs.

GODA RAGHURAM, J

Dated:07-03-2007

Pvks/*